

## Road Transport (General) Bill 2004

New South Wales

### Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

#### Overview of Bill

The objects of this Bill are:

- (a) to implement in New South Wales a legislative scheme for the compliance and enforcement of mass, dimension and loading requirements for heavy vehicles based on model provisions (the ***national model provisions***) approved by the Australian Transport Council for the purpose of achieving nationally consistent legislation, and
- (b) to repeal and re-enact the *Road Transport (General) Act 1999* (the ***former Act***) to include the national model provisions and consequentially re-organise the provisions of the former Act, and
- (c) to make consequential amendments to other Acts.

Outline of provisions

### Chapter 1 Preliminary

#### Part 1.1 Introductory

Part 1.1 (clauses 1–9) contains definitions and other interpretative provisions. It defines key terms, including ***Authority*** (the Roads and Traffic Authority), ***road transport legislation*** (which includes the proposed Act, the *Road Transport (Driver Licensing) Act 1998*, the *Road Transport (Heavy Vehicles Registration Charges) Act 1995*, the *Road Transport (Safety and Traffic Management) Act 1999*, the *Road Transport (Vehicle Registration) Act 1997* and the *Motor Vehicles Taxation Act 1988*) and ***responsible person*** for a vehicle. A ***heavy vehicle*** is defined as a vehicle having a gross vehicle mass greater than 4.5 tonnes.

Part 1.1 also provides that the proposed Act binds the Crown and prohibits contracting out of the provisions of the proposed Act.

#### Part 1.2 Regulations

Part 1.2 (clauses 10–13) re-enacts the general regulation-making power contained in section 71 of the former Act and the power to exempt by regulation contained in section 72 of that Act. The power to make regulations with respect to matters referred to in section 9 of the *Road Transport Reform (Vehicles and Traffic) Act 1993* of the Commonwealth that was formerly contained in section 264A of the *Roads Act 1993*, together with section 264B of that Act, is also re-enacted.

### Chapter 2 Scope of Act

#### Part 2.1 Inter-relationship between road transport legislation and other law

Part 2.1 (clause 14) re-enacts Division 2 of Part 2 of the former Act, relating to the operation of the road transport legislation with other law.

#### Part 2.2 Alteration of scope of operation of road transport legislation

Part 2.2 (clauses 15–18) re-enacts sections 9–11 and 13 of the former Act, conferring power on the Minister to make orders declaring that the road transport legislation, or a specified provision or provisions of it, does not apply to a specified road or area of the State.

### Chapter 3 Mass, dimension and load restraint requirements for vehicles

Chapter 3 enacts the provisions of the national model provisions containing sanctions relating to breaches of mass, dimension and load restraint requirements for heavy vehicles. In this State, the requirements and part of the enforcement scheme will extend to unladen heavy vehicles as well as laden heavy vehicles, and some

provisions will be extended to vehicles not classified as being heavy vehicles but subject to those requirements in this State. Currently the mass, dimension and load restraint requirements, and compliance and enforcement provisions, are contained in the *Roads Act 1993* and the *Road Transport (Mass, Loading and Access) Regulation 1996*.

### **Part 3.1 Preliminary**

Part 3.1 (clauses 19–25) contains definitions and other interpretative provisions. Among the key terms defined are **dimension requirement**, **load restraint requirement** and **mass requirement**. In Chapter 3, **responsible person** has a wider meaning than in the remainder of the road transport legislation because it includes owners of vehicles, drivers and persons in charge of vehicles, in addition to registered operators of vehicles. The provisions also provide a guide as to how it is to be determined whether a breach of a mass, dimension or load restraint requirement involves an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity.

### **Part 3.2 Mass, dimension, load restraint and other restrictions for vehicles**

Part 3.2 (clauses 26–28) re-enacts sections 108, 109 and 112 of the *Roads Act 1993*. The Part permits the making of regulations imposing mass, dimension or load restraint restrictions on vehicles generally, the granting of excess weight permits exempting vehicles from such restrictions and the placing of vehicle mass restrictions on particular roads. The Part also makes it an offence for a person to drive a vehicle or cause a vehicle (other than a heavy vehicle or a heavy combination) to be driven in breach of the restrictions. Offences relating to heavy vehicles and heavy combinations are dealt with elsewhere in the Chapter and in regulations.

### **Part 3.3 Special provisions—mass, dimension and load restraint requirements for heavy vehicles**

Part 3.3 establishes new offences for breaches of mass, dimension and load restraint requirements relating to heavy vehicles or heavy combinations. It extends liability for such breaches to drivers, operators, consigners, packers and owners, establishing a “chain of responsibility” throughout the transport process. Penalties for offences will vary according to the seriousness of the breach. For some offences, the common law defence of reasonable mistake of fact will not be available but a “reasonable steps” defence will be available.

#### **Division 1 Preliminary**

Division 1 (clause 29) applies Part 3.3 to heavy vehicles or heavy combinations, or both.

#### **Division 2 Categorisation of breaches**

##### **Subdivision 1 Categories of breaches**

Subdivision 1 (clauses 30–33) describes the categories of breaches of mass, dimension and load restraint requirements, being minor risk breaches, substantial risk breaches and severe risk breaches. The category of a breach of a mass or dimension requirement varies according to its relationship to the category limits set out in Subdivision 2. The category of a breach of a load restraint requirement varies according to whether or not it is imminent or has occurred and the risk of harm involved. The provisions have a wider application than the national model provisions, as they extend to breaches of dimension requirements that are applicable to unladen vehicles.

##### **Subdivision 2 Lower limits (for substantial or severe risk breaches of mass or dimension requirements)**

Subdivision 2 (clauses 34–38) sets out the limits for determining the category of a breach of a mass or dimension requirement. In the case of a mass requirement, this is to be determined by the amount by which the mass of a vehicle exceeds the relevant requirement. In the case of a dimension requirement, this is to be determined

by the amount by which the height, width or breadth of a vehicle exceeds the relevant requirement.

### **Subdivision 3 Recategorisation of certain breaches**

Subdivision 3 (clauses 39–41) provides for certain breaches to be categorised into more severe categories if the breach concerned is committed in certain specified circumstances, such as in hazardous conditions.

### **Subdivision 4 Miscellaneous**

Subdivision 4 (clauses 42–44) enables regulations to be made varying the applicable limits for mass and dimension breaches, though not to lower the limits set by the proposed Act. The Subdivision also provides for the categorisation of a breach of a requirement that a load on a vehicle or combination must not project in a way that is dangerous to a person or property.

### **Division 3 Enforcement powers**

Division 3 (clauses 45–52) contains additional enforcement powers of authorised officers in relation to breaches of mass, dimension and loading requirements. Other enforcement powers are contained in Part 4.2. The powers vary according to the nature of the breach and are enforced by way of offences of failing to comply with directions given. An additional power (presently contained in section 232 of the *Roads Act 1993*) is included to enable authorised officers to detain vehicles or combinations. Authorised officers:

- (a) if there is a minor risk breach—may authorise a driver to continue the journey (conditionally or unconditionally), but may also direct the driver to rectify breaches there and then or to move the vehicle or combination (within a limited distance) and not proceed until breaches are rectified, or
- (b) if there is a substantial risk breach—must direct the driver not to proceed until breaches are rectified, but (in particular circumstances or in accordance with particular instructions given by the Authority) may direct the driver to move the vehicle or combination to the nearest suitable location and not proceed until breaches are rectified, or
- (c) if there is a severe risk breach—must direct the driver not to proceed until breaches are rectified, but (in limited particular circumstances or in accordance with particular instructions given by the Authority) may direct the driver to move the vehicle or combination to the nearest suitable location and not proceed until breaches are rectified.

### **Division 4 Liability for breaches of mass, dimension or load restraint requirements**

Division 4 (clauses 53–59) establishes the “chain of responsibility” for breaches of mass, dimension or load restraint requirements. It creates new offences that impose liability for such breaches on consignors of goods, packers of goods, loaders of goods and consignees of goods, in addition to operators and drivers of the relevant vehicles or combinations. Consignors and packers will also be guilty of offences if freight containers exceed the maximum gross weight marked on the container’s safety approval plate. For each offence, a “reasonable steps” defence will be generally available. Penalties for offences will vary according to whether it is a first or subsequent offence and according to the nature of the breach. Penalties for severe risk breaches will be 5 times higher than those for minor risk breaches.

### **Division 5 Sanctions**

Division 5 (clauses 60 and 61) requires courts to take into account the specified consequences of breaches of mass, dimension and load restraint requirements when determining the kinds and level of sanctions to be imposed. It also provides for default categorisation of breaches.

### **Division 6 Container weight declarations**

Division 6 (clauses 62–69) contains new requirements relating to declarations (*container weight declarations*) as to the weight of freight containers and their

contents. It also imposes obligations on persons (**responsible entities**) who consign freight containers for transport by road (or others in their stead) to provide operators or drivers of vehicles or combinations with complying container weight declarations. Operators will have a duty to supply a declaration to the driver of the relevant vehicle or combination and drivers will have a duty to sight the declaration before commencing a journey.

#### **Division 7 Recovery of losses resulting from non-provision of or inaccurate container weight declarations**

Division 7 (clauses 70–74) provides a right to recover from a responsible entity certain losses incurred because a container weight declaration is not provided or is false or misleading. In the former case, losses arising from delays in delivery or transportation may be recovered. In the latter case, losses arising from penalties are also recoverable. A responsible entity may also recover amounts paid by it for losses resulting from an inaccurate container weight declaration from the person who provided the false or misleading information.

#### **Division 8 Transport documentation**

Division 8 (clause 75) creates offences imposing liability on consignors of goods, packers of goods, loaders of goods and receivers of goods where transport documentation is false or misleading in a material particular relating to the mass, dimension or load restraint of goods consigned wholly or partly for transport by road. It also creates offences imposing liability on responsible entities and operators of vehicles or combinations if a container weight declaration contains information that is false or misleading in a material particular. The reasonable steps defence will be available for the offences.

#### **Division 9 Concessions**

Division 9 (clauses 76–79) makes it an offence to contravene a condition of a mass, dimension or load restraint concession and prevents a person who contravenes it from having the benefit of it in the assessment of breaches by the person.

### **Part 3.4 Proceedings for offences for mass, loading and dimension requirements**

#### **Division 1 Liability of registered operators and owners**

Division 1 (clauses 80–83) makes the registered operator, or the owner, of a vehicle or combination liable for an offence committed by an operator of the vehicle or combination under the **applicable road laws** (that is, Chapter 3, regulations made under the Chapter, Part 4.2 (relating to powers of authorised officers with respect to vehicles or combinations) and the *Road Transport (Mass, Loading and Access) Regulation 1996*). It also makes persons who aid, abet, counsel or procure the commission of an offence under such a law, or who cause or permit a person to commit such an offence, guilty of the principal offence and makes it a separate offence to urge another person to commit such an offence.

#### **Division 2 Defences**

Division 2 (clauses 84–86) establishes the following defences for applicable road law offences:

- (a) that conduct resulting in an offence was carried out in response to circumstances of sudden or extraordinary emergency,
- (b) that the conduct was authorised or excused by law.

#### **Division 3 Reasonable steps defence**

Division 3 (clauses 87–90) sets out the reasonable steps defence for breaches by drivers, owners or operators of mass requirements and for other breaches of mass, dimension and load restraint requirements. Division 3 also provides that the defence of mistaken but reasonable belief (available for strict liability offences) will not be available for specified offences, being offences relating to breaches of requirements by consignors, packers, loaders, operators, drivers and responsible entities, and including false or misleading statements in transport documentation. The reasonable

steps defence is available for those offences, except in the case of certain dimension and load restraint breaches by drivers or operators.

There are 3 reasonable steps defences:

(a) in the case of mass breaches by drivers, owners or operators (including light vehicles and combinations)—it is a defence if the defendant did not know and could not reasonably be expected to have known of the contravention and had taken all reasonable steps to prevent the contravention. A court may only be satisfied that all reasonable steps have been taken if it is satisfied that the defendant took all reasonable steps to cause the mass of a load to be ascertained before the journey or the defendant did not have custody or control of the vehicle concerned,

(b) in the case of other mass, dimension or load restraint breaches—it is a defence if the defendant did not know and could not reasonably be expected to have known of the contravention and had taken all reasonable steps to prevent the contravention. A court may have regard to a number of factors in determining whether reasonable steps have been taken by the defendant,

(c) in the case of mass breaches by drivers or operators of heavy vehicles or heavy combinations where a freight container is involved—the defendant may rely on the weight stated in the relevant container weight declaration, except where it is established that the person knew or ought reasonably have known that it was incorrect or there was a breach.

#### **Division 4 Other special defences**

Division 4 (clauses 91–95) sets out defences generally applicable to applicable road law offences. These include a defence for owners or operators where a vehicle or combination is being used without authority by an employee or agent or other person, a defence for a driver prosecuted for an offence involving deficiencies concerning a vehicle or combination and a defence where conduct occurs in compliance with a direction given by an authorised officer, an Australian Authority or delegate of such an authority. The Division also gives a driver, owner or operator of a light vehicle or combination the benefit of the reasonable steps defence for a mass breach.

#### **Division 5 Fines**

Division 5 (clause 96) sets out the circumstances for determining when an offence is a first offence or a second or subsequent offence for the purpose of determining the maximum applicable penalty for an offence.

### **Part 3.5 Additional sanctions for heavy vehicle offences**

#### **Division 1 Preliminary**

Division 1 (clauses 97 and 98) applies the Part to heavy vehicles or heavy combinations and makes it clear that a court may impose one or more of the penalties under the Act if a person is found guilty of an applicable road law offence.

#### **Division 2 Improvement notices**

Division 2 (clauses 99–104) enables an authorised officer nominated as an approved officer to serve an improvement notice on a person if of the opinion that the person has contravened, is contravening or is likely to contravene an Australian applicable road law. An improvement notice is a notice requiring a contravention or likely contravention to be remedied. It will be an offence to contravene a notice without reasonable excuse. Notices may be amended or cancelled and a clearance certificate may be issued when a notice is complied with.

#### **Division 3 Formal warnings**

Division 3 (clauses 105 and 106) confers power on an authorised officer to issue a written formal warning to a person for a contravention of an applicable road law, instead of taking proceedings.

#### **Division 4 Commercial benefits penalty orders**

Division 4 (clause 107) enables a court to impose a commercial benefits penalty order on a person found guilty of an applicable road law offence. A commercial

benefits penalty order is an order to pay a fine of up to 3 times the amount estimated to be the gross commercial benefit obtained, or that would have been obtained, from the commission of the offence.

#### **Division 5 Registration sanctions**

Division 5 (clause 108) enables a court to cancel or suspend the registration of a vehicle if an applicable road law offence was committed in relation to the vehicle (other than an offence involving a minor or substantial risk breach of a mass, dimension or load restraint requirement).

#### **Division 6 Supervisory intervention orders**

Division 6 (clauses 109 and 110) enables a court to impose a supervisory intervention order on a person found guilty of an applicable road law offence if the court considers the person to be a systematic or persistent offender against the Australian applicable road laws. An order may require the person to do specified things to improve compliance, to conduct monitoring and other practices, to report to the Authority and to appoint other persons to assist the person in compliance. It will be an offence to contravene an order.

#### **Division 7 Prohibition orders**

Division 7 (clauses 111 and 112) enables a court that finds a person guilty of an applicable road law offence to make a prohibition order if the court considers the person to be a systematic or persistent offender against the Australian applicable road laws. An order may prohibit a person, for a specified period, from having a specified role or responsibilities associated with road transport. It will be an offence to contravene an order.

#### **Part 3.6 General**

Part 3.6 (clauses 113–120) contains provisions relating to the recognition of administrative actions of authorities of other jurisdictions in connection with corresponding applicable road laws of those jurisdictions and orders made by courts of other jurisdictions. It also makes it an offence for an employer to dismiss or injure or act to the detriment of an employee or contractor because the employee or contractor has assisted in relation to, or given information or complained about, a breach of an applicable road law. The Part also makes it an offence for a responsible person to give false or misleading information to another responsible person, as well as containing other provisions relating to the provision of information by the Authority to other authorities. The Part re-enacts section 234 of the *Roads Act 1993*.

### **Chapter 4 Investigation powers relating to road transport legislation**

#### **Part 4.1 Authorised officers**

Part 4.1 (clauses 121–129) provides for the appointment, identification and exercise of powers by authorised officers for the purposes of the road transport legislation. It also provides for the exercise of powers by authorised officers appointed under corresponding legislation.

#### **Part 4.2 Investigation powers for certain laws**

##### **Division 1 Preliminary**

Division 1 (clauses 130–134) applies the Part (which confers additional search and inspection powers on authorised officers as set out in the national model provisions) to applicable road laws, regulations relating to driver fatigue management and any other Acts or regulations prescribed by the regulations. The extension of the meaning of applicable road laws for the purposes of the Part is an extension of the operation of the national model provisions and the former Act. The Division also contains interpretation provisions.

##### **Division 2 Directions to stop, move or leave vehicles or combinations**

Division 2 (clauses 135–140) confers on authorised officers powers to direct the driver of a vehicle or combination to stop, not to move, or move or cause it to be

moved to a suitable location, or to leave a vehicle or combination. The powers may be exercised for the purposes of or in connection with other powers under an applicable road law (as defined for the purposes of the Part) or where an officer believes on reasonable grounds that a vehicle or combination is causing serious harm or causing or likely to cause an obstruction to traffic. The powers apply to vehicles or combinations on public places or premises of the Authority or other premises that an officer may lawfully enter under Division 4.

### **Division 3 Power to move unattended or broken down vehicles or combinations**

Division 3 (clauses 141–143) confers on authorised officers powers to move unattended vehicles or combinations or cause them to be moved. The powers may be exercised for the purposes of or in connection with other powers under an applicable road law (as defined for the purposes of the Part) or where an officer believes on reasonable grounds that a vehicle or combination is causing serious harm.

### **Division 4 Powers of inspection and search**

Division 4 (clauses 144–149) confers on authorised officers powers to inspect and search vehicles or combinations on roads or public places or premises of the Authority and to inspect and search business premises of a responsible person, the garage address of a vehicle or combination, the base of a driver or drivers of a vehicle or combination or other premises. An inspection may be carried out for compliance purposes (that is, to find out whether an applicable road law (as defined for the purposes of the Part) or an approved road transport compliance scheme is being complied with or to investigate a breach or suspected breach of any such law or scheme. A search may be carried out if an officer believes on reasonable grounds that there may have been a breach of any such law or scheme or that the vehicle or combination may have been involved in an incident involving death or personal injury or damage to property. A search may also be carried out for evidence related to driver fatigue offences. A search warrant is required to search unattended premises or residential premises. An authorised officer may seize things that may provide evidence of an offence.

### **Division 5 Other directions**

Division 5 (clauses 150–156) confers on authorised officers powers to direct responsible persons to produce records (including transport documentation) or devices containing records, to give their personal details, to provide information about a vehicle or combination or any load or equipment carried or intended to be carried on the vehicle or combination and to provide reasonable assistance to an authorised officer exercising an inspection or search power under Division 4. The reasonable assistance may include finding and gaining access to information and records, operating equipment and facilities and running an engine of a vehicle or combination. It will be an offence to contravene directions under the Division.

### **Division 6 Search warrants**

Division 6 (clause 157) enables authorised officers to obtain search warrants for the purposes of searching premises for evidence of offences under applicable road laws.

### **Division 7 Other provisions regarding inspections and searches**

Division 7 (clauses 158–160) contains additional provisions relating to inspections and searches, including provisions enabling authorised officers to use assistants and equipment to carry out inspections and searches and to operate equipment to access information.

### **Division 8 Other provisions regarding seizure**

Division 8 (clauses 161 and 162) requires receipts to be given if things are seized under the Part and, where a record, device or thing cannot, or cannot readily, be seized, enables authorised officers to issue embargo notices. An embargo notice prohibits a thing from being moved, sold, leased, transferred, deleted or otherwise

dealt with without the relevant officer's consent or the consent of the Authority or the Commissioner of Police.

### **Division 9 Miscellaneous**

Division 9 (clauses 163–170) contains miscellaneous provisions, including a provision preventing a person who is not a police officer from using force against a person even if a provision authorises the use of reasonable force, a provision setting out requirements for obtaining the consent of a person for the purposes of the Part, a provision enabling the giving of directions under more than one provision, and a provision requiring an authorised officer to take reasonable steps to return a vehicle, combination or equipment to the condition it was in before being damaged by action taken under the Part. Division 9 also requires compliance with the Part despite the privilege against self-incrimination but prevents any statement, information or answer from being used against a natural person in criminal proceedings if the person concerned objected on the ground of self-incrimination or was not warned of the right to object on that ground. Division 9 also permits information obtained under the Part to be given to a public authority and makes it an offence to obstruct or hinder or impersonate an authorised officer.

### **Part 4.3 Identity powers**

Part 4.3 (clauses 171–175) re-enacts the provisions of Division 2 of Part 3 of the former Act, being provisions empowering authorised officers to require the production of driver licences and names and addresses and the provision of information about drivers by responsible persons.

## **Chapter 5 Enforcement of road transport legislation**

### **Part 5.1 Liability for offences**

Part 5.1 (clauses 176–179) contains various provisions extending liability for offences. It makes it clear that proceedings may be taken against any or all persons who may be liable for an offence under the road transport legislation and applies the double jeopardy rule to such offences. The Part also makes directors and persons concerned in the management of corporations liable for offences committed by those corporations. Persons involved in the management of partnerships and unincorporated associations will also be liable for applicable road law offences committed by other persons concerned in the management of the partnerships or associations. An employer will also be liable for an applicable road law offence committed by an employee. A defence will be available for offences committed by body corporates, partners or association members where the defendant could not have influenced the conduct or took reasonable precautions or exercised due diligence. A defence will be available to an employer who had no knowledge of the offence and who took reasonable precautions or exercised due diligence. The Part also re-enacts the provisions of section 43 of the former Act, relating to responsibility of responsible persons for certain camera recorded offences or parking offences.

### **Part 5.2 Proceedings for offences**

Part 5.2 (clauses 180–182) re-enacts section 47 of the former Act, relating to proceedings for offences and a 1-year limitation period for commencing proceedings for offences under the road transport legislation. It also provides for a 2-year limitation period for applicable road law offences (or a further 1-year period where evidence is obtained and the period would otherwise expire).

Proceedings for certain offences may be dealt with summarily by the Supreme Court, where the maximum penalty exceeds 500 penalty units (in the case of heavy vehicle offences) or 100 penalty units (in the case of other offences).

### **Part 5.3 Penalty notices**

Part 5.3 (clauses 183–186) re-enacts Division 1 of Part 3 of the former Act, relating to penalty notices.

### **Part 5.4 Sanctions relating to licences**



### **Division 1 Licence disqualification**

Division 1 (clauses 187–189) re-enacts sections 24, 25 and 26 of the former Act, relating to courts' powers to disqualify persons convicted of certain offences from holding a driver licence, automatic disqualification for certain offences and the effect of disqualification. A severe risk breach of a mass, dimension or load restraint requirement is added to the offences on conviction for which a court may disqualify a person from holding a driver licence.

### **Division 2 Use of interlock devices as alternative to disqualification**

Division 2 (clauses 190–197) re-enacts Subdivision 2 of Division 3 of Part 3 of the former Act, and Schedule 1A to the former Act, relating to the use of interlock devices as an alternative to disqualification from holding a licence.

### **Division 3 Habitual traffic offenders**

Division 3 (clauses 198–203) re-enacts Division 4 of Part 3 of the former Act, relating to the declaration of persons convicted of certain offences as habitual traffic offenders and their consequential disqualification from holding a driver licence.

### **Division 4 Suspension of licences and visiting driver privileges**

Division 4 (clauses 204–206) re-enacts Division 5 of Part 3 of the former Act, relating to the suspension of driver licences by the Commissioner of Police, immediate suspension by a police officer when certain offences are committed and suspension of certain driving privileges of visiting drivers.

### **Division 5 Downgrading of licences**

Division 5 (clause 207) re-enacts Division 6 of Part 3 of the former Act, relating to the downgrading of licences by the Authority when driver licences are cancelled.

## **Part 5.5 Other sanctions**

### **Division 1 Compensation orders**

Division 1 (clauses 208–216) re-enacts sections 37 and 38 of the former Act, relating to compensation for losses of time or expenses incurred as a result of an offence under the road transport legislation. The Division also enacts provisions contained in the national model provisions that enable a court, on finding a person guilty of an applicable road law offence, to make a roads compensation order requiring compensation to be paid for damage to road infrastructure arising from the offence. Provisions relating to assessment of damage, the amount of compensation under a roads compensation order and recovery of the compensation are also included in the Division.

### **Division 2 Detention, impounding and forfeiture of vehicles**

Division 2 (clauses 217–228) re-enacts Division 8 of Part 3 of the former Act, and Schedule 1 to the former Act, relating to the removal, impounding and forfeiture of vehicles used in connection with certain specified offences.

## **Part 5.6 Evidential provisions**

Part 5.6 (clauses 229–238) provides for the use of evidentiary certificates in proceedings as prima facie evidence of certain specified matters under the road transport legislation. The Part also makes it unnecessary to prove the appointment of certain specified office holders, including the Chief Executive of the Authority and the Commissioner of Police. The Part contains other provisions relating to evidence of the state of mind of a body corporate or an employer, evidence of the mass rating of a vehicle or component, evidence regarding measuring devices and weighing by a weightbridge or weighing facility. It enables certain statements or allegations made by the prosecution in proceedings, such as statements that a specified vehicle was a heavy vehicle, to be prima facie evidence of the matter stated and gives evidentiary effect to matters contained in transport documentation.

## **Chapter 6 Miscellaneous**

### **Part 6.1 General**

Part 6.1 (clauses 239–248) re-enacts sections 44, 45, 48, 49 and 73–75 of the former Act. It also re-enacts clause 24 of Schedule 2 to the former Act, which contains alternate appeal rights to Local Courts, taking into account matters appellable to Local Courts as a result of regulations made under that clause. The Part also contains formal provisions giving effect to the Schedules of savings and transitional provisions and of repeals and amendments to other Acts.

## **Part 6.2 Miscellaneous provisions concerning vehicles and roads**

### **Division 1 Unauthorised use of vehicles**

Division 1 (clauses 249 and 250) re-enacts Division 2 of Part 4 of the former Act, relating to using vehicles without the owner's consent and procuring the use of a vehicle through fraud or misrepresentation.

### **Division 2 Written off and wrecked motor vehicles**

Division 2 (clauses 251–265) re-enacts Division 3 of Part 4 of the former Act, relating to registration and other requirements and obligations in relation to written off and wrecked motor vehicles.

### **Division 3 Police powers**

Division 3 (clauses 266 and 267) re-enacts Division 1 of Part 4 of the former Act, relating to police powers to enter vehicle repairers' premises and to use tyre deflation devices in police pursuits.

### **Schedule 1 Savings, transitional and other provisions**

Schedule 1 enacts savings, transitional and other provisions consequent on the commencement of the proposed Act and the repeal of the former Act. Among other things, it continues the effect of savings and transitional provisions having effect under the former Act.

### **Schedule 2 Repeals**

Schedule 2 repeals the former Act and other Acts amending that Act.

### **Schedule 3 Amendment of other Acts**

Schedule 3 amends other Acts as a consequence of the commencement of the proposed Act and the repeal of the former Act. It also contains additional amendments to the proposed Act that are to be made on the commencement of provisions of the *Law Enforcement (Powers and Responsibilities) Act 2002* and other amendments that reflect uncommenced amendments to the former Act contained in the *Road Transport (General) Amendment (Licence Suspension) Act 2004*.